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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,105	09/08/2003	Kurt Benzing	1900P55321WOUS	7056
28204	7590	12/29/2004	EXAMINER	
SIEMENS SCHWEIZ I-44, INTELLECTUAL PROPERTY ALBISRIEDERSTRASSE 245 ZURICH, CH-8047 SWITZERLAND			TRAIL, ALLYSON NEEL	
			ART UNIT	PAPER NUMBER
			2876	
DATE MAILED: 12/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,105

Applicant(s)

BENZING ET AL.

Examiner

Allyson N Trail

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/1/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claims 1 and 8 are objected to because of the following informalities:

Re claim 1, line 2: replace "have the" with --having a--.

Re claim 1, line 5: replace "have" with --has--.

Re claim 1, line 6: replace "the actuation" with --an actuation--.

Re claim 1, line 12: replace "the spring" with --spring--.

Re claim 1, line 13: replace "the plate" with --plate--.

Re claim 8, line 3: replace "the free ends" with --free ends--.

Re claim 8, line 7: replace "the armature" with --an armature--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Burkart (6,439,903).

Burkart teaches the following in regards to claims 1, 3, and 4:

A tachograph 1 is installed in a vehicle. (Col. 5, lines 61-62).

"The invention relates to a receptacle for data cards having a cardholder in which the data cards are guided and having locking means which are assigned to the cardholder and which can be activated by means of a data card when the data card is inserted into the receptacle, and having ejection means which can move a data card located in the read/write position into a removal position." (Col. 1, lines 5-11).

Figure 1 shows a tachograph. The tachograph includes designated slots 9 and 10, which permit access to the receptacles and which are provided for personal data cards assigned to drivers I and II. The slots 9 and 10 are provided, for the sake of easier insertion of data cards. The data cards are inserted into a read/write position.

Figure 2 shows a receptacle 19, which consists essentially of a cardholder 20.

The closing element controls the input and output of the chip cards. The closing element (23) is automatically moved back into the closed position and so locked against pivoting. (See claim 5).

The cardholder forms a pocket for the data cards and includes a control slide 21 which is mounted on the cardholder 20. The cardholder also includes a release element which, could be for example, motor-operated. The receptacle 19 includes an ejection means. Specifically, the ejection means has two control slides 21, tension

springs 28 assigned thereto, two locking latches 22, and restoring springs 29 engaging thereon.

The sequence when a data card 104 is inserted and output will be summarized once more below. The data card 104 is inserted into one of the slots 9 or 10 in the front panel 2. The data card 104 is subsequently oriented and retained by the guide grooves 30, 31 and the pressing-on limbs 85, 86 of the retaining spring 83. The outputting of the data card 104 is triggered by activating a pushbutton key and is carried out by pivoting the locking latch 22. After the control slide 21 has been released by the locking latch 22, the tension spring 28 guides the control slide 21 back into the initial position predefined by the connecting part 24. At the same time as the control slide 21 is guided back, the data card 104 is pushed into the release position, the pressing-on limbs 85, 86 of the retaining spring 83 performing a braking function. (See column 6).

Burkart teaches the following in regards to claim 2:

The closing element controls the input and output of the chip cards. The closing element (23) is automatically moved back into the closed position and so locked against pivoting. (See claim 5).

The cardholder also includes a release element which, could be for example, motor-operated. (See column 3, lines 49-55).

As shown in figure 4, the transfer path is longer than the length of the data card 120. There are indicators (switches) used to designate when the data card is fully inserted and when the data card is being ejected. When the data card is being ejected, the contact signals are disconnected.

In regards to claims 5 and 6, Burkart teaches the cardholder including a control slide mounted thereon in such a way that the control slide can be displaced relative to the cardholder data card being inserted and removed. The control slide includes the contacts used for reading and writing to the data card.

Burkart teaches the following in regards to claim 7:

The tension springs 28, which make contact with the data card are lowered and raised by the force provided within. Tension springs 28 are shown in figure 4 to be at right angles to the data card 104.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burkart (6,439,903) in view of Shima et al (5,331,144).

Burkart's teachings are discussed above. Burkart teaches using an actuator. (See column 6, lines 1-9). Burkart fails to teach the actuator being an electromagnet actuator.

Shima et al teaches the following in regards to claim 8:

Claim 9 discloses, a card reader-writer, wherein an urging means includes an actuator having an electromagnet.

In view of Shima et al's teachings, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to use an electromagnet actuator to connect to the free ends of the spring contacts. One would be motivated to use an electromagnet actuator for the reason that electromagnet actuators are relatively small and in comparison with motorized actuators, the electromagnet actuator provides such an advantage that the structure of the electromagnet actuator is significantly simpler and it performs the control operations and sequences considerably faster than the motorized actuator. The magnet actuator also provides such an advantage that the electromagnet armature moves quite freely.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Burkart (6,437,815) and (6,470,762), Koch (5,187,646), Hautvast et al (5,043,562), Hug (2002/0085339), and d'Acoz et al (6,775,169).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [allyson.trail@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Allyson N. Trail
Patent Examiner
Art Unit 2876
December 22, 2004

Jared J. Fureman
JARED J. FUREMAN
PRIMARY EXAMINER